

Exhibit 4

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FILED
LOS ANGELES SUPERIOR COURT
JAN 19 2007
John A. Calle, Executive Officer/C
By _____ DEPUTY

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES**

11 CAROLENA SACCONI,
12

13 Plaintiff,

14 v.

15 AVENTIS PHARMACEUTICALS
INC., a Delaware Corporation,
16 JACKIE SANTOS, an individual; and
DOES 1-50 Inclusive,

17 Defendants.
18
19
20
21

CASE NO. BC327123

[Assigned for all purposes to the Honorable
Robert L. Hess, Dept. 24]

**NOTICE OF RULING ON AVENTIS'
MOTION FOR SUMMARY
JUDGMENT, OR IN THE
ALTERNATIVE, SUMMARY
ADJUDICATION**

Hearing Date: April 12, 2006

22 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

23 On April 12, 2006, at 8:30 AM, the motion of defendant AVENTIS
24 PHARMACEUTICALS, INC. ("Aventis") for summary judgment, or in the alternative,
25 summary adjudication, came on regularly for hearing before the Honorable Robert L.
26 Hess in Department 24 of the Los Angeles County Superior Court. Frank A. Magnanimo
27 appeared on behalf of Plaintiff Carolena Saccone. Joseph Kouri and Mireya A.R.
28 Llaurado appeared as counsel for Aventis.

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NOTICE OF RULING ON AVENTIS' MOTION FOR SUMMARY JUDGMENT, OR IN THE
ALTERNATIVE, SUMMARY ADJUDICATION

1 After considering the moving and reply papers and supporting evidence, the
2 opposition thereto, and arguments of counsel, and indulging all reasonable inferences in
3 favor of plaintiff Saccone as the nonmoving party, the court ruled as follows:

4 1. The Motion for Summary Judgment is DENIED.

5 2. Finding no triable issue as to any material fact with regard to Causes of
6 Action Nos. 1, 2, 5, 7, 8, 9, 10, 11, 12 and 13, and concluding, that Aventis is entitled to
7 judgment as a matter of law on each of these claims, the Court GRANTED summary
8 adjudication on these causes of action as follows, pursuant to California Code of Civil
9 Procedure section 437c:

10 a. The Motion for Summary Adjudication is GRANTED as to the First
11 Cause of Action (Discrimination based on Medical Condition) and
12 the Second Cause of Action (Discrimination based on Disability)
13 because the undisputed evidence does not support a reasonable
14 inference that plaintiff Saccone's medical condition or disability
15 were a motivating factor in Aventis' actions, specifically the
16 termination of plaintiff Saccone, or that this event was based on
17 discriminatory intent. Plaintiff undisputedly was aware of Aventis'
18 legitimate policy requiring her to provide timely and complete
19 certification of continued leave, but she failed to comply by
20 submitting the necessary documentation on or before the deadline of
21 September 29, 2003.

22
23 b. The Motion for Summary Adjudication is GRANTED as to the Fifth
24 Cause of Action (Wrongful Denial of Leave Under the California
25 Family Rights Act), as plaintiff was not eligible for leave under the
26 California Family Rights Act at the time of her second disability.
27 She had not met the employment duration requirement because she
28 had worked at Aventis for less than 12 months.

- 1 c. The Motion for Summary Adjudication is GRANTED as to the
2 Seventh Cause of Action (Failure to Prevent
3 Discrimination/Harassment) because there is no evidence of
4 discrimination or harassment, as noted above in paragraph 1(a).
5
- 6 d. The Motion for Summary Adjudication is GRANTED as to the
7 Eighth Cause of Action (Wrongful Termination in Violation of
8 Public Policy) because there is no evidence of any illegal acts, as
9 noted above in paragraph 1(a).
10
- 11 e. The Motion for Summary Adjudication is GRANTED as to the
12 Ninth Cause of Action (Intentional Infliction of Emotional Distress)
13 because there is no evidence of outrageous conduct, as noted above
14 in paragraph 1(a).
15
- 16 f. The Motion for Summary Adjudication is GRANTED as to the
17 Tenth Cause of Action (Failure to Pay Statutorily Mandated Wages –
18 Waiting Time Penalties) and the Eleventh Cause of Action (Failure
19 to Provide Adequate Meal and Rest Periods), as plaintiff Saccone
20 was exempt from California overtime and break laws. Plaintiff's
21 job-related activities were those of an "outside salesperson" within
22 the meaning of Cal. Labor Code section 1171, Title 8, section 11070,
23 Subd. 2-I of the California Code of Regulations, and California
24 Industrial Welfare Commission Wage Order 7-80. Although she did
25 not sell prescription medications to consumers, consumers could
26 only obtain prescription medications from pharmacists subject to a
27 doctor's prescription. Hence, Plaintiff's visits to doctor's offices and
28 clinics were an integral part of the relevant sales channel.

1
2 g. As the Twelfth Cause of Action (Unfair Competition and Attorney
3 General claim) and Thirteenth Cause of Action (Conversion) are
4 based solely on an entitlement to the wages set out in paragraph 1(f)
5 above, the Motion for Summary Adjudication is GRANTED as to
6 these claims.
7

8 3. The Motion for Summary Adjudication is DENIED as to Third Cause of
9 Action (Failure to Accommodate Disability) and the Fourth Cause of Action (Failure to
10 Engage in the Interactive Process) because triable issues exist as to these claims with
11 regard to the possibility of part-time employment.
12

13 4. The Motion for Summary Adjudication is DENIED as to the Sixth Cause of
14 Action (Retaliation) because there is a triable issue of fact as to whether Maureen Flinton
15 of Aventis' Disability Department informed the company's human resources department
16 to terminate Plaintiff's employment because of her prior complaints about Flinton.
17

18 DATED: January 10, 2007

SEDGWICK, DETERT, MORAN & ARNOLD LLP

19
20 By: 
21

Joseph Kouri
Mireya A.R. Llaurodo
Attorneys for Defendant
Aventis Pharmaceuticals Inc.
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PROOF OF SERVICE

Carolena Saccone v. Aventis Pharmaceuticals, Inc., et al.

LASC (Central) - CASE NO.: BC 327123

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 801 S. Figueroa Street, 18th Floor, Los Angeles, California 90017-5556.

On January 11, 2007, I served the within document(s):

**NOTICE OF RULING ON AVENTIS' MOTION FOR SUMMARY JUDGMENT,
OR IN THE ALTERNATIVE, SUMMARY ADJUDICATION**

- ☒ **U.S. MAIL** - by placing the document(s) listed above in a sealed envelope with shipping prepaid, and depositing in a collection box for United States first-class mail delivery to the person(s) at the address(es) set forth below.
- ☐ **FACSIMILE** - by transmitting via facsimile the document(s) listed above to the fax number(s) set forth on the attached Telecommunications Cover Page(s) on this date before 5:00 p.m.
- ☐ **PERSONAL SERVICE** - by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ **OVERNIGHT COURIER** - by placing the document(s) listed above in a sealed envelope with shipping prepaid, and depositing in a collection box for next day delivery to the person(s) at the address(es) set forth below.

SEE ATTACHED SERVICE LIST.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

- ☒ **[STATE]** I declare under penalty of perjury under the laws of the State of California and United States that the above is true and correct.
- ☐ **[FEDERAL]** I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made.

Executed this January 11, 2007, at Los Angeles, California.


Leota M. Dollison

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**NOTICE OF RULING ON AVENTIS' MOTION FOR SUMMARY JUDGMENT, OR IN THE
ALTERNATIVE, SUMMARY ADJUDICATION**

SERVICE LIST

Carolena Saccone v. Aventis Pharmaceuticals, Inc., et al.

LASC (Central) - CASE NO.: BC 327123

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